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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/696,373

10/29/2003

Gregory Winfield Gorman

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30955 7590 05/16/2007

LATHROP & GAGE LC
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BOULDER, CO 80301

EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT

PAPER NUMBER

1772

MAIL DATE

DELIVERY MODE

05/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/696,373

Applicant(s)

GORMAN, GREGORY WINFIELD

Examiner

Alicia Chevalier

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 6, 8, 21, 22 and 25-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 8, 21, 22 and 25-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

RESPONSE TO AMENDMENT

Note: The species restriction require made of record in the office action January 3, 2006 is here by withdrawn, since it appears that the species do indeed over lap.

Request for Continued Examination

1. The Request for Continued Examination (RCE) under 37 CFR 1.53 (d) filed on March 2, 2007 is acceptable and a RCE has been established. An action on the RCE follows.
2. Claims 1-3, 5, 6, 8, 21-22 and 25-32 are pending in the application, claims 4, 7, 9-20, 23 and 24 have been cancelled.
3. Amendments to the claims, filed on February 5, 2007, have been entered in the above-identified application.

WITHDRAWN REJECTIONS

4. The 35 U.S.C. §112 rejections of claims, made of record in the office action mailed December 4, 2006, page 2, paragraph #5 have been withdrawn due to Applicant's amendment in the response filed February 5, 2007.
5. The 35 U.S.C. §102 rejection of claims over Hornsby (US Patent No. 4,032,687), made of record in office action mailed December 4, 2006, page 3, paragraph #6 has been withdrawn due to Applicant's amendment in the response filed February 5, 2007.

NEW REJECTIONS

6. **The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.**

Claim Rejections - 35 USC § 112

7. Claims 1-3, 5, 6, 8, 21-22 and 25-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the instant case amended claims 1 and 25 contain the limitation “wherein the difference in water reactivities renders said symbol visually distinct from said container when said container holds said fluid.” The specification does not disclose that the symbol becomes visually distinct from the contained due to the difference in water reactivities.

The specification on page 3, paragraphs 12-14 recite:

[0012] A symbol-bearing receptacle for a fluid, said receptacle comprising a container for said fluid and a symbol disposed on said container, said symbol having a water reactivity that differs from the water reactivity of said container.

[0013] In addition: a symbol-bearing receptacle for a fluid, said receptacle comprising a container for said fluid, a symbol affixed to said container, and means for creating a contrast in appearance between said container and said symbol when the temperature of said container is reduced to the condensation point.

[0014] In addition: a method for creating a contrast in appearance between a fluid receptacle and a symbol, said method comprising the steps of selecting a receptacle having a first water reactivity, affixing to said receptacle a symbol having a second water reactivity that differs from said first water reactivity, reducing the temperature of said receptacle to the condensation point, and observing said symbol on said receptacle.

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The specification clearly indicates that the symbol is visually distinct when there is a different water reactivities in the materials and when the temperature of the container is reduced to the condensation point.

Appropriate corrections should be made.

8. Claims 1-3, 5, 6, 8, 21-22 and 25-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 1 and 25 contain the limitation “wherein the difference in water reactivities renders said symbol visually distinct from said container when said container holds said fluid.” The specification does not describe how the symbol is visually distinct.

9. Claims 1-3, 5, 6, 8, 21-22 and 25-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 25 recite “symbol visually distinct” which is unclear and renders the claims vague and indefinite. It is unclear from the specification what the “visually distinct” is?

ANSWERS TO APPLICANT'S ARGUMENTS

10. Applicant's arguments in the response filed February 5, 2007 regarding the previous rejections of record have been considered but are moot since the rejections have been withdrawn.

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Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ac

5/13/07



**ALICIA CHEVALIER
PRIMARY EXAMINER**